

REMARKS

Claims 1-31 are pending in this application. Claims 18-20 and 25-31 have been subjected to a restriction requirement and have been withdrawn from consideration. Claims 1, 2, 5, 6, 12, 13, 16, 17, 21, and 24 have been rejected. Claims 14 and 15 have been objected to. And claims 3, 4, 7-11, 22, and 23 are allowed.

Claims Objections

The Office has objected to claims 12-17 and 24 for the reasons on page 2 of the Office Action. Applicant disagrees with the Office for the following reasons.

1. The Office argues that claims 12 and 24 contain a limitation (portion of the substrate not containing the nitride-containing layer) that lacks sufficient antecedent basis. In a previous Office Action, the Office rejected these claims for the same reasons. Applicant responded by arguing and explaining why there existed sufficient antecedent basis. Obviously, Applicant's previous arguments had merit since the Office has removed the rejection and is now only objecting to the claims.

In any event, Applicant continues to disagree with the Office for the reasons of record. Namely, it again appears that the Office has continued to misinterpret claims 12 and 24. The manner in which these claims are written are consistent with the invention as described in the specification, i.e., Figure 17 and its accompanying description in the specification.

Nevertheless, solely in an effort to expedite prosecution, Applicant has amended claims 12 and 24 to use different language to explain the same concept. Accordingly, the scope of the

claim has not been changed, merely different language had been used to explain the same concept of how the semiconductor device is formed.

2. The Office objects to claim 13 on the basis that the term “distance” has insufficient antecedent basis. Applicant thanks the Office for noticing this error. Applicant has amended claim 13 to remove this term while not changing the scope of this limitation.

3. The Office objects to claim 14, contending that “polysilicon” should be preceded by “doped.” Applicant does not agree. But rather than argue the merits of the Office’s objection, Applicant has amended claim 14 so that it’s scope is broadened and would encompass both polysilicon and doped polysilicon.

4. The Office objects to both claims 15 and 16, contending that the phrase “polysilicon layer” in both claims does not have sufficient antecedent basis. Applicant thanks the Office for noticing these errors and has accordingly amended claims 15 and 16.

Accordingly, Applicant respectfully requests withdrawal of these objections.

Rejection – 35 U.S.C. § 102(e) over Yamada et al.

The Office has rejected claims 1, 2, 5, 6, 12, 16, 17, 21, and 24 under 35 U.S.C. § 102 (e) as being anticipated by Yamada et al. (U.S. Patent No. 6,770,535) for the reasons listed on pages 2-4 of the Office Action. Applicant respectfully traverses this rejection.

Yamada et al. was filed on January 24, 2001, and claimed priority of Japanese Application No. 2000-015604 that was filed on January 25, 2000. Under 35 U.S.C. § 102 (e), the earliest date for which Yamada et al. can be relied on as prior art to reject the present claims is not the foreign filing date, but the actual U.S. filing date of January 24, 2001. *See M.P.E.P. § 2136.*

Enclosed with this Amendment is a 37 C.F.R. § 1.131 Declaration signed by all the inventors of the present application. In that Declaration, the inventors testify that they conceived and reduced to practice the invention recited in the present claims before January 24, 2001. Accordingly, Yamada et al. no longer qualifies as “prior art” under 35 U.S.C. § 102 (e) and this rejection should be withdrawn.

Allowable Subject Matter

Applicant appreciates the indication that claims 14 and 15 contain allowable subject matter. The claims on claims 14 and 15 depend should be allowable for the reasons noted immediately above. Accordingly, Applicant has not amended these claims as suggested by the Office.

Allowed Subject Matter

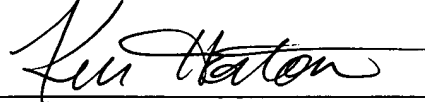
Applicant appreciates the indication that claims 3, 4, 7-11, 22 and 23 are allowed.

CONCLUSION

For the above reasons, as well as those of record, Applicant respectfully requests the Office to withdraw the pending grounds of rejection and allow the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 50-0843.

Respectfully Submitted,

By 
KENNETH E. HORTON
Reg. No. 39,481

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 328-3600
Facsimile: (801) 321-4893

Date: January 24, 2005